



VIRGINIA BOARD OF DENTISTRY
BOARD BUSINESS MEETING AGENDA

SEPTEMBER 13, 2024

<u>TIME</u>		<u>PAGE</u>
9:00 a.m.	Call to Order – Margaret F. Lemaster, RDH, President	--
	Welcome New Board Member (Sacksteder)	--
	Public Comment – Ms. Lemaster	--
	Approval of Minutes	
	• June 20, 2024, Formal Hearing	1-2
	• June 21, 2024, Board Business Meeting	3-5
	DHP Director’s Report – Arne W. Owens	--
	Board Counsel Report – Mr. Rutkowski	--
	Liaison & Committee Reports	--
	• Nominating Committee	--
	Legislation and Regulation - Mr. Novak	
	• BOD Regulatory chart	6-7
	• 18VAC60-21-80 Withdrawal of 2018 action regarding advertising dental specialties	8-14
	• Fast-track regulatory action regarding agency subordinates	15-18
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	Board Discussion Action	
	• Consideration of Public Comments	--
	Deputy Executive Director’s Report – Ms. Weaver	
	• Disciplinary Report	25-26
	Executive Director’s Report – Ms. Sacksteder	
	• Update on Compact	
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**VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING MINUTES
June 20, 2024**

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 9:07 a.m., on June 20, 2024, in Board Room 4 at the Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia, 23233.

PRESIDING: Margaret F. Lemaster, R.D.H., President

MEMBERS PRESENT: J. Michael Martinez de Andino, J.D., Secretary-Treasurer
William C. Bigelow, D.D.S.
Sultan E. Chaudhry, D.D.S.
Emelia H. McLennan, R.D.H.

MEMBERS ABSENT: Sidra Butt, D.D.S.
Jamiah Dawson, D.D.S.

STAFF PRESENT: Jamie C. Sacksteder, Executive Director
Sarah Moore, Executive Assistant

COUNSEL PRESENT: James E. Rutkowski, Senior Assistant Attorney General

OTHERS PRESENT: Amanda C. Padula-Wilson, Assistant Attorney General
Rebecca Smith, Adjudication Specialist
Omar Nur, Court Reporter
Andrew Miller, Esquire

ESTABLISHMENT OF A PANEL: With Five Board members present, a panel was established.

**Murray Spain, D.M.D.
Case No.:222831, 230457,
232535** Dr. Murray Spain was present with counsel in accordance with notice dated April 17, 2024.

Ms. Lemaster swore in the witnesses.

Following Ms. Padula-Wilson's opening statement, Ms. Lemaster admitted into evidence Commonwealth's Exhibits 1-9.

Following Mr. Miller's opening statement, Ms. Lemaster admitted into evidence Dr. Miller's Exhibits A - G.

Testifying on behalf of the Commonwealth:

- Patient A
- Patient B
- Patient F

Dr. Spain testified on his own behalf.

Ms. Padula-Wilson and Mr. Miller provided closing statements.

Closed Meeting:

Mr. Martinez moved that the Board enter into a closed meeting pursuant to §2.1-311(A)(27) and Section 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter Murray Spain, D.M.D. Additionally, he moved that Board staff, Ms. Sacksteder, and Ms. Moore and the Board Counsel, Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Mr. Martinez moved to certify that the Board heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

Decision:

Mr. Rutkowski reported that the license to practice dentistry in the Commonwealth of Virginia for Murray Spain, D.M.D., is revoked.

Mr. Martinez moved to accept the Board's decision as read by Mr. Rutkowski. The motion was seconded and passed.

Adjournment:

The Board adjourned at 5:22 p.m.

Margaret F. Lemaster, R.D.H., President

Jamie C. Sacksteder, Executive Director

Date

Date

**VIRGINIA BOARD OF DENTISTRY
BUSINESS MEETING MINUTES
June 21, 2024**

- TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:01 a.m., on June 21, 2024, at the Perimeter Center, 9960 Mayland Drive, in Board Room 4, Henrico, Virginia 23233.
- PRESIDING:** Margaret F. Lemaster, R.D.H., President
- MEMBERS PRESENT:** Alf Hendricksen, D.D.S., Vice-President
J. Michael Martinez de Andino, J.D., Secretary-Treasurer
William C. Bigelow, D.D.S.
Nathaniel C. Bryant, D.D.S.
Sultan E. Chaudhry, D.D.S.
Jamiah Dawson, D.D.S.
Emelia H. McLennan, R.D.H.
Jennifer Szakaly, D.D.S.
- MEMBERS ABSENT:** Sidra Butt, D.D.S.
- STAFF PRESENT:** Jamie C. Sacksteder, Executive Director
Erin Weaver, Deputy Executive Director
Sarah Moore, Executive Assistant
Arne Owens, Agency Director, DHP
Erin Barrett, J.D., Director of Legislative and Regulatory Affairs, DHP
- COUNSEL PRESENT:** James E. Rutkowski, Senior Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With nine members of the Board present, a quorum was established.
Ms. Sacksteder read the emergency evacuation procedures.
- PUBLIC COMMENT:** Ms. Lemaster explained the parameters for public comment and opened the public comment period.
Ms. Lemaster advised that no one registered for public comments prior to the meeting and closed the public comment period.
- APPROVAL OF MINUTES:** Ms. Lemaster asked if there were any edits or corrections to the July 21, 2023, Licensing Workgroup Minutes; March 7, 2024, Formal Hearing Minutes; March 8, 2024, Board Meeting Minutes; March 20, 2024, Telephone Conference Special Session Minutes; April 8, 2024, Telephone Conference Special Session Minutes; April 19, 2024, Formal Hearing Minutes; May 17, 2024 a.m., Formal Hearing Minutes; and May 17, 2024 p.m., Formal Hearing Minutes. Hearing none, Dr. Hendricksen moved to approve the minutes as presented. The motion was seconded and passed unanimously.

DHP DIRECTOR'S REPORT

Arne Owens, Agency Director, discussed the 2024 General Assembly session and the implementation of DHP Regulatory Actions, the authorization of Agency spending, the addition of 12 new full-time employee positions, the Business Process improvement project for DHP licensing, and the current Gallagher Study for employee retention.

BOARD COUNSEL REPORT:

Mr. Rutkowski had no report for the Board, as there are currently no pending appeals.

LIAISON & COMMITTEE REPORTS:

AADB Mid-Year Meeting – Ms. Sacksteder reported on her attendance at this meeting, which was informative and held in Chicago, IL, on April 11-12, 2024.

ADEX Exam – Dr. Chaudhry reported on his participation as an examiner on April 12-13, 2024, for the CDCA WREB CITA exams at VCU in Richmond, VA.

AADA Mid-year Meeting: Ms. Sacksteder reported on this virtual meeting held on April 23, 2024, with other State Boards participating and roundtable discussion of best practices.

Upcoming Meetings: Ms. Sacksteder advised the upcoming AADB, AADA, ADEX, and CDCA-WREB-CITA meetings will be held consecutively on September 25-29, 2024, in Louisville, KY.

LEGISLATION, REGULATION, AND GUIDANCE:

18VAC60-21-108 Dentistry Opioid Counseling Requirement: Ms. Barrett explained the changes to certain patient counseling and recordkeeping requirements related to opioid prescriptions for 18VAC60-21-108, which were consistent with a bill that passed in the 2024 General Assembly. Dr. Hendricksen made a motion to adopt the exempt regulatory changes to amend 18VAC60-21-108. The motion was seconded and passed unanimously.

Status Report on Regulatory Actions Chart – Ms. Barrett reviewed the updated Regulatory Actions Chart listing the eight ongoing regulatory actions as of February 9, 2024, which was included in the agenda packet. A synopsis of the progress of the bills was provided. She advised 18VAC60-21-55 Emergency Regulations on the training requirements for botulinum toxin injections for cosmetic purposes will expire on November 5, 2025.

18VAC60-11-10, et seq. Periodic Review: Ms. Barrett discussed the completion of the periodic review of public participation guidelines contained in 18VAC6011-10, et seq. Dr. Bigelow made a motion to retain 18VAC60-11 as is. The motion was seconded and passed unanimously.

BOARD DISCUSSION TOPICS:

Consideration of Public Comment – Ms. Lemaster reported there were no public comments.

2025 Board Calendar - Ms. Sacksteder presented the proposed 2025 BOD Calendar. Mr. Martinez made a motion to adopt the 2025 Calendar. The motion was seconded and passed unanimously.

**DEPUTY EXECUTIVE
DIRECTOR'S REPORT:**

Disciplinary Report - Ms. Weaver updated the Board on the Disciplinary Report for the period February 1, 2024 – May 30, 2024, of the number of cases received and cases closed. She advised there were no summary suspensions during this period. She thanked the Board for their case reviews, contributing to a more efficient workflow. She advised there were 3 revocations of licenses during this period.

**EXECUTIVE DIRECTOR'S
REPORT:**

American Association of Dental Boards (AADB) Membership – Ms. Sacksteder discussed the Board becoming a member of the AADB. Board Members discussed the benefits of the proposed membership. Mr. Martinez made a motion for the Board to join the AADB. The motion was seconded and passed unanimously.

Ms. Sacksteder acknowledged Dr. Bryant's term on the Board since he is not eligible for reappointment. There was also acknowledgement of Ms. Lemaster's and Dr. Chaudhry's tenure and contributions to the Board. They both are eligible for reappointment.

ADJOURNMENT:

With all business concluded, the Board adjourned at 10:02 a.m.

Margaret Lemaster, R.D.H., President

Jamie C. Sacksteder, Executive Director

Date

Date

Board of Dentistry
Current Regulatory Actions
As of August 17, 2024

In the Governor's Office

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC60-21	Proposed	Elimination of restriction on advertising dental specialties	9/15/2019	1798 days (4.9 years)	Adopted on advice of Board counsel. With publication of the periodic review changes, this action is no longer needed. Before the Board for withdrawal.
18VAC60-21	Exempt	Changes to patient counseling regulations pursuant to HB699	6/25/2024	2 days	Implements directive from legislation.

In the Secretary's Office

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC60-21 18VAC60-30	Final	Training in infection control	7/5/2022	774 days (2.1 years)	Amendments require specific training in infection control for dental assistants. Promulgated in response to a petition for rulemaking.
18VAC60-21 18VAC60-25	NOIRA	Continuing education requirements for jurisprudence	7/12/2022	767 days (2.1 years)	Board is considering amendments to Chapters 21 and 25 to require jurisprudence continuing education for dentists and dental hygienists.

18VAC60-21	Proposed	Digital Scan Technicians	Withdrawn 5/19/2022; Re-Proposed 8/18/2022	730 days (2 years)	Regulations for the training of digital scan technicians to practice under a licensed dentist
18VAC60-30	Proposed	Elimination of direct pulp-capping as a delegable task	7/22/2022	723 days (2 years)	Eliminates direct pulp-capping as a delegable task for a DAIL.

At DPB

None.

At OAG

None.

Recently effective, published, or awaiting publication

VAC	Stage	Subject Matter	Publication date	Effective date/ next steps
18VAC60-21	Emergency/ NOIRA	Training requirements for botulinum toxin injections for cosmetic purposes	5/20/2024	Comment period ended 7/3/2024. Proposed regulations before Board for vote.
18VAC60-21 18VAC60-25	NOIRA	Expansion and clarification of refresher courses required for reinstatement	8/12/2024	Comment period 8/12/2024 – 9/11/2024. Board will vote on proposed regulations at December meeting.
18VAC60-21 18VAC60-25 18VAC60-30	Fast-track	Implementation of amendments identified during 2022 periodic review of Chapters 21, 25, and 30	9/9/2024	Comment period 9/9/2024 – 10/9/2024; effective date 10/24/2024.

Agenda Item: Withdrawal of proposed action removing restriction on advertising

Included in your agenda package:

- Proposed changes to 18VAC60-21-80 regarding dental advertising, adopted by the Board in 2018;
- Fast-track amendments to 18VAC60-21-80 which will become effective October 24.

Staff Note: The amendments adopted by the Board following its periodic review of Chapter 21 eliminate the provisions amended in the 2018 action. That action is now moot and can be withdrawn.

Action needed:

- Motion to withdraw proposed changes to 18VAC60-21-80 regarding dental advertising.

Project 5206 - Proposed

Board of Dentistry

Amendment to restriction on advertising dental specialties

18VAC60-21-80. Advertising.

A. Practice limitation. A general dentist who limits his practice to a dental specialty or describes his practice by types of treatment shall state in conjunction with his name that he is a general dentist providing certain services (e.g., orthodontic services).

B. Fee disclosures. Any statement specifying a fee for a dental service that does not include the cost of all related procedures, services, and products that, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts and free offers. Discount and free offers for a dental service are permissible for advertising only when the nondiscounted or full fee, if any, and the final discounted fee are also disclosed in the advertisement. In addition, the time period for obtaining the discount or free offer must be stated in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee or free offer.

D. Retention of advertising. A prerecorded or archived copy of all advertisements shall be retained for a two-year period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded or archived copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. Advertising of fees pursuant to this section is limited to procedures that are set forth in the American Dental Association's "Dental Procedures Codes," published in Current Dental Terminology in effect at the time the advertisement is issued.

F. Advertisements. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code are met.

G. False, deceptive, or misleading advertisement. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of subdivision 7 of § 54.1-2706 of the Code:

1. Publishing an advertisement that contains a material misrepresentation or omission of facts that causes an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation not deceptive;
2. Publishing an advertisement that fails to include the information and disclaimers required by this section;
3. Publishing an advertisement that contains ~~a false~~ an unsubstantiated claim of professional superiority, ~~contains a claim to be a specialist, or uses any terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, November 2013), or such guidelines or requirements as subsequently amended;~~ or
4. ~~Representation by a dentist who does not currently hold specialty certification that his practice is limited to providing services in such specialty area without clearly disclosing~~

~~that he is a general dentist~~ Publishing an advertisement that is not in compliance with § 54.1-2718 of the Code of Virginia.

Project 7287 - Fast-Track

Board of Dentistry

**Implementation of amendments identified during 2022 periodic review of Chapters 21, 25,
and 30**

18VAC60-21-80 changes only

18VAC60-21-80. Advertising.

A. Practice limitation. A general dentist who limits his practice to a dental specialty or describes his practice by types of treatment shall state in conjunction with his name that he is a general dentist providing certain services (e.g., orthodontic services).

B. Fee disclosures. Any statement specifying a fee for a dental service that does not include the cost of all related procedures, services, and products that, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts and free offers. Discount and free offers for a dental service are permissible for advertising only when the nondiscounted or full fee, if any, and the final discounted fee are also disclosed in the advertisement. In addition, the time period for obtaining the discount or free offer must be stated in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee or free offer.

D. Retention of advertising. A prerecorded or archived copy of all advertisements shall be retained for a two-year period following the final appearance of the advertisement. The advertising

dentist is responsible for making prerecorded or archived copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. Advertising of fees pursuant to this section is limited to procedures that are set forth in the American Dental Association's "Dental Procedures Codes," published in Current Dental Terminology in effect at the time the advertisement is issued.

~~F. Advertisements. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code are met.~~

~~G. False, deceptive, or misleading advertisement. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of subdivision 7 of § 54.1-2706 of the Code:~~

- ~~1. Publishing an advertisement that contains a material misrepresentation or omission of facts that causes an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation not deceptive;~~
- ~~2. Publishing an advertisement that fails to include the information and disclaimers required by this section;~~
- ~~3. Publishing an advertisement that contains a false claim of professional superiority, contains a claim to be a specialist, or uses any terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, November 2013), or such guidelines or requirements as subsequently amended; or~~

~~4. Representation by a dentist who does not currently hold specialty certification that his practice is limited to providing services in such specialty area without clearly disclosing that he is a general dentist.~~

Agenda Item: Adoption of fast-track regulatory action to allow agency subordinates to hear credentials cases

Included in your agenda package are:

- Draft regulatory amendments to allow agency subordinates to hear credentials cases;
- HB1622 of the 2023 General Assembly.

Staff Note: HB1622 was an agency bill during the 2023 General Assembly. The bill allows agency subordinates to hear credentials cases. Previously, agency subordinates could only hear disciplinary cases.

Action needed:

- Motion to adopt fast-track regulatory action regarding use of agency subordinates.

Project 8038 - Fast-Track

Board of Dentistry

Amendment to allow agency subordinates to hear credentials cases

18VAC60-15-20. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. ~~Decision to delegate.~~ In accordance with subdivision 10 of § 54.1-2400 of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate ~~at the time a determination is made that probable cause exists that a practitioner may be subject to a disciplinary action. If delegation to a subordinate is not recommended at the time of the probable cause determination, delegation may be approved by the president of the board or his designee.~~

B. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.
2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.
3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 191

An Act to amend and reenact § 54.1-2400 of the Code of Virginia, relating to health regulatory boards; delegation of authority to conduct informal fact-finding proceedings.

[H 1622]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2400 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2400. General powers and duties of health regulatory boards.

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).

7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.

8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such designee.

9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, permit, or multistate licensure privilege in lieu of disciplinary action.

10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated.

This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019; ~~upon receipt of information that a practitioner may be subject to a disciplinary action.~~ The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered, or licensed practitioner; a facility holding a license, certification, registration, or permit; or a person holding a multistate licensure privilege to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner or facility. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner or facility. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner or facility has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered, or licensed practitioner, a facility holding a license, certification, registration, or permit, or a person holding a multistate licensure privilege to practice nursing who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

Agenda Item: Proposed regulatory amendments regarding training for botulinum toxin injections for cosmetic purposes

Included in your agenda package:

- Emergency regulations adopted by the Board pursuant to legislation regarding training requirements for dentists to perform botulinum toxin injections for cosmetic purposes;
- Town Hall page showing no comments on NOIRA/Emergency stage.

Action needed:

- Motion to adopt proposed regulations regarding training requirements for dentists to perform botulinum toxin injections for cosmetic purposes.

Project 7739 - Proposed

Board of Dentistry

Training requirements for botulinum toxin injections for cosmetic purposes

18VAC60-21-55. Training requirements for administration of botulinum toxin injections for cosmetic purposes.

A. A dentist may possess and administer botulinum toxin injections for cosmetic purposes provided that the dentist has completed 12 hours of training in the subjects listed in subsection C of this section. Training must include a minimum of four hours of clinical, in-person training on at least two live patients, which shall include patient follow-up post-procedure. Eight of the 12 hours of training may be didactic and may be obtained online or in person.

B. To satisfy the requirements of this section, training must be provided by a dental program or advanced dental education program accredited by CODA, the ADA or its constituent or branch associations, or the Academy of General Dentistry.

C. Training to possess and administer botulinum toxin injections for cosmetic purposes shall include the following subjects:

1. Assessing patients for use of botulinum toxin injections;
2. Screening of patient expectations and psychological motivations;
3. Diagnosis, planning, and treatment;
4. Informed consent, including off-label use of botulinum toxins;
5. Anatomy and neurophysiology of the head and neck;
6. Indications and contraindications for the use of botulinum toxin injections, including off-label and approved product uses;

7. Pharmacology of neurotoxins and botulinum toxins:

8. Safety and risks associated with use of botulinum toxins, including the recognition and management of adverse reactions and complications:

9. Preparation and administration of botulinum toxins; and

10. Evaluation of patient outcomes.

18VAC60-21-350. Certification to perform cosmetic procedures; applicability.

A. In order for an oral and maxillofacial surgeon to perform aesthetic or cosmetic procedures, he the oral and maxillofacial surgeon shall be certified by the board pursuant to § 54.1-2709.1 of the Code. Such certification shall only entitle the licensee to perform procedures above the clavicle or within the head and neck region of the body.

B. Based on the applicant's education, training, and experience, certification may be granted to perform the following procedures for cosmetic treatment:

1. Rhinoplasty and other treatment of the nose;
2. Blepharoplasty and other treatment of the eyelid;
3. Rhytidectomy and other treatment of facial skin wrinkles and sagging;
4. Submental liposuction and other procedures to remove fat;
5. Laser resurfacing or dermabrasion and other procedures to remove facial skin irregularities;
6. Browlift (either open or endoscopic technique) and other procedures to remove furrows and sagging skin on the upper eyelid or forehead;
7. Platysmal muscle plication and other procedures to correct the angle between the chin and neck;

8. Otoplasty and other procedures to change the appearance of the ear; and

9. ~~Application of injectable medication or material for the purpose of treating extra-oral~~
~~cosmetic conditions.~~ Administration of dermal filler.



Agency Department of Health Professions
Board Board of Dentistry
Chapter Regulations Governing the Practice of Dentistry [\[18 VAC 60 - 21\]](#)

Action: Training requirements for botulinum toxin injections for cosmetic purposes

Emergency/NOIRA Stage

Action 6389 / Stage 10203

- [Edit Stage](#)
- [Go to RIS Project](#)
- [Request Emergency Extension](#)

Documents		
Emergency Text	5/7/2024 9:38 am	Sync Text with RIS
Agency Background Document	12/14/2023	Upload / Replace
Attorney General Certification	12/15/2023	
Governor's Review Memo	4/30/2024	
Registrar Transmittal	5/6/2024	

Status	
Public Hearing	Will be held at the proposed stage
Emergency Authority	Item 301, 2023 Budget amendments
Attorney General Review	Submitted to OAG: 12/14/2023 Review Completed: 12/15/2023 Result: Certified
DPB Review	Submitted on 12/20/2023 Policy Analyst: Jeannine Rose Review Completed: 1/3/2024
Secretary Review	Secretary of Health and Human Resources Review Completed: 4/23/2024
Governor's Review	ORM Review: ORM Approved 4/30/2024 Governor Review Completed: 4/30/2024 Result: Approved
Virginia Registrar	Submitted on 5/6/2024 The Virginia Register of Regulations Publication Date: 5/20/2024 Volume: 40 Issue: 20
Comment Period	Ended 7/3/2024 0 comments
Effective Date	5/6/2024
Expiration Date	11/5/2025

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This person is the primary contact for this board.

*This stage was created by [Erin Barrett](#) on 11/30/2023 at 9:51am
This stage was last edited by [Erin Barrett](#) on 11/30/2023 at 9:52am
RIS System last updated this stage on 05/06/2024 at 11:41am*



Virginia Department of
Health Professions
 Board of Dentistry
 Disciplinary Board Report

May 15, 2024 – August 16, 2024

The table below includes all cases that have received Board action since May 15, 2024 through August 16, 2024.

Year 2024	Cases Received	Cases Closed No Violation	Cases Closed W/Violation	Total Cases Closed
May	26	41	4	45
June	40	46	6	52
July	43	38	6	44
August	28	17	3	20
TOTALS	137	141	20	161

Closed Case with Violations consisted of the following:

Patient Care Related:

- **9 Standard of Care: Diagnosis/Treatment:** Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also, include failure to diagnose/treat& other diagnosis/treatment issues.
- **1 Inability to Safely Practice:** Impairment due to use of alcohol, illegal substances, or prescriptions drugs, or incapacitation due to mental, physical, or medical conditions.
- **1 Abuse/Abandonment/Neglect:** Any mistreatment of a patient, inappropriate termination of provider/patient relationship.
- **1 Standard of Care: Surgery:** Improper/unnecessary performance of surgery, improper patient management, and other surgery-related issues.
- **1 Unlicensed Activity:** Aiding and abetting the practice of unlicensed activity.

Non-Patient Care Related:

- **5 Business Practice Issues:** Recordkeeping or continuing education.



Virginia Department of
Health Professions
Board of Dentistry
Disciplinary Board Report

CCA's

There were 6 CCAs issued from February 1, 2024 through May 30, 2024. The CCAs issued consisted of the following violations:

- **4 Business Practice Issues:** Recordkeeping
- **1 Confidentiality:** Disclosing unauthorized client information without permission or necessity.
- **1 Records Release:** Failure or delay in the release of patient records or charging excessive fees for records requests.

Suspensions/Revocations

There have been 0 Summary Suspensions issued from May 15, 2024 through August 16, 2024.



Virginia Department of
Health Professions
Board of Dentistry

Cash Balance as of June 30, 2022	<u>\$3,461,854</u>
YTD FY 2023 Revenue	2,954,255
Less: YTD FY 2023 Direct and Allocated Expenditures	2,790,334
Cash Balance as of June 30, 2023	<u><u>\$3,625,776</u></u>

Virginia Department of Health Professions

Current Count of Licenses

Quarterly Summary

Quarter 4 - Fiscal Year 2024

Current licenses by board and occupation as of the last day of the quarter.

** New Occupation

*** Veterinary Establishments are now grouped together, as the board works on designating existing establishments as "Ambulatory" or "Stationary" instead of "Full Service" or "Restricted Service"

Quarter	July 1 - September 30	October 1 - December 31	January 1 - March 31	April 1 - June 30
Quarter 1				
Quarter 2				
Quarter 3				
Quarter 4				

BOARD	Q4 2021	Q1 2022	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023	Q3 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024	
Dentistry	Cosmetic Procedure/Central Anesthesia	41	41	40	40	41	41	39	41	41	41	41	42	
	Deep Sedation/Moderate Sedation	64	76	77	72	72	70	67	64	64	68	64	63	
	Dental Assistant II	40	42	42	43	44	47	44	48	47	49	46	50	
	Dental Full Time Faculty	12	12	12	13	14	13	15	16	16	17	17	17	
	Dental Hygienist	5,650	6,017	6,061	6,045	6,020	6,089	6,020	6,000	6,049	6,063	6,026	6,113	
	Dental Hygienist Faculty	-	-	-	-	-	-	-	-	-	-	-	-	-
	Dental Hygienist Restricted Volunteer	2	3	3	3	3	3	3	3	3	-	-	-	
	Dental Hygienist Temporary Permit	-	-	-	-	1	1	-	-	-	-	-	-	-
	Dental Hygienist Volunteer Registration	-	-	-	-	-	-	-	-	-	-	-	-	-
	Dental Restricted Volunteer	14	15	15	15	16	13	13	13	14	6	6	6	10
Dental Teacher	-	-	-	-	-	-	-	-	-	-	-	-	-	
Dental Temporary Permit	-	-	-	-	-	-	-	-	-	-	-	-	-	
Dentist	7,516	7,710	7,772	7,777	7,795	7,844	7,744	7,760	7,828	7,842	7,802	7,822	7,972	
Dentist-Volunteer Registration	-	3	-	-	3	3	-	-	1	3	-	-	-	
Enteral Conscious/Moderate Sedation	121	122	122	120	109	105	102	88	68	87	94	91	88	
Mobile Dental Facility	12	12	13	9	10	10	12	6	7	7	7	7	6	
Moderate Sedation	262	263	271	277	272	275	278	282	279	278	283	287	291	
Oral/Maxillofacial Surgeon Registration	272	279	281	268	270	284	287	283	270	278	285	288	275	
Sedation Permit Holder Location	528	528	531	531	549	568	591	377	381	386	384	368	397	
Temporary Conscious/Moderate Sedation	-	-	-	-	-	-	-	-	-	-	-	-	-	
Temporary Resident	44	46	46	53	80	53	55	85	86	59	63	71	87	

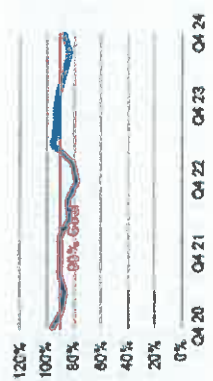
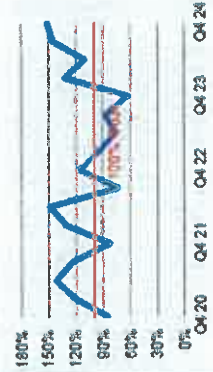


Virginia Department of
Health Professions
 Board of Dentistry

Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct.

Age of Pending Caseload - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 20%.

Time to Disposition - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days.



DDH Compact Implementation Timeline

On April 22, 2024, the Dentist and Dental Hygienist Compact (DDH Compact) was enacted in its seventh state. The compact legislation specifies that it will come into effect upon enactment of its seventh state. See the [DDH Compact Map](#) for an updated list of participating states. Although the compact has been enacted by seven states, applications for compact privileges are not yet available. Below is a timeline of implementation activities that must take place before the compact can be used by dentists and dental hygienists. The compact will not be fully operational for an estimated 18-24 months.

April 22, 2024 – DDH Compact enacted in 7th state.

The DDH Compact legislation specifies it is effective upon the enactment of the 7th state.

Summer 2024 - Formation of Compact Commission

Each member state must appoint a one representative to serve on the compact commission. The commissioner is selected by the state's dental licensing board. The compact specifies that the commissioner must be a representative of the state licensing board.

Fall 2024 – Inaugural Commission Meeting

The state commissioners will convene for the inaugural meeting of the DDH Compact Commission where they will elect an executive committee, vote on initial rules and bylaws, and take other steps for the compact to move towards being fully operational. Commission meetings will be open to the public.

2025 Ongoing – Creation of Compact Data System

The compact commission will continue to work on operationalizing the compact by acquiring a data system. The data system is a foundational piece of compact operations. Compact member states communicate licensure and compact privilege information via the data system. It is expected that the data system process will take 10-12 months. Once the data system is available, states will be tasked with onboarding to the system. States will have varying timelines to onboard.

2025 Ongoing – Additional Commission Meetings

The compact commission will hold commission meetings throughout 2025 for additional rulemaking. The commission will also hire staff, develop a budget, approve a fee structure, select a secretariat organization and take additional steps for the compact to be fully operational.

Privilege Applications Open

Once the data system is up and running and an application process is established, the compact commission will open applications for compact privileges to dentists and dental hygienists.

The application process will involve verifying the dental professional has a qualifying license and is eligible for compact participation. Once the application has been reviewed, the applicant will receive confirmation that they have been issued compact privileges in the member state(s) they selected. After a privilege is issued, the dentist or dental hygienist can practice in those member states in which they hold a privilege.